


Public Policy and External Affairs

April 7, 2006

**VIA HAND DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk and Administrator  
Public Service Commission of S.C.  
P.O. Box 11649  
Columbia, South Carolina 29211

178843  
  
1301 Gervais Street, Suite 825  
Columbia, SC 29201

Phone 803 254-5736  
Fax 803 254-9626


Re: Petition of Donald A. Quick on Behalf of the Residents in Center Creek Community  
Requesting To Change or Add Additional Local Telephone Providers in Ridgeway, S.C.  
**Docket No. 2006-65-C**

Dear Mr. Terreni:

Enclosed for filing please find an original and six (6) copies of Verizon South, Inc.'s **Response(s)** in the above referenced docket.

If you have questions or need additional information, please do not hesitate to contact me at 803-254-5736.

With kind personal regards, I am

  
Stan J. Bugner

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803 254-5736  
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Enclosure

cc: Jeffrey M. Nelson (ORS)  
Donald P. Quick

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
Docket No. 2006-65-C**

IN RE:

PETITION OF DONALD A. QUICK ON	)	
BEHALF OF THE RESIDENTS IN CENTER	)	<b>CERTIFICATE OF SERVICE</b>
CREEK COMMUNITY REQUESTING TO	)	
CHANGE OR ADD ADDITIONAL	)	
LOCAL TELEPHONE PROVIDERS IN	)	
<u>RIDGEWAY, SOUTH CAROLINA</u>	)	

This is to certify that I have caused to be served this day, one (1) copy of the **RESPONSE** filed by Verizon South Inc. in the above referenced docket to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Donald A. Quick  
1400 Center Creek Road  
Ridgeway, S.C. 29130

Jeffrey M. Nelson, Esquire  
Office of Regulatory Staff  
P.O. Box 11263  
Columbia, S.C. 29211

RECEIVED  
APR 7 2006  
SC PUBLIC SERVICE COMMISSION



AMBER L. LANDSMAN

April 7, 2006  
Columbia, South Carolina

**Before  
The Public Service Commission  
Of  
South Carolina**

**DOCKET NO. 2006-65-C**

**IN RE:**

Petition of Donald A. Quick on Behalf )  
of the Residents in Center Creek )  
Community )  
Complainant/Petitioner )

v. )

Verizon South Inc. )  
Defendant/Respondent )

**RESPONSE AND MOTION  
TO DISMISS PETITION**

FILED  
2006 APR -7 PM 4:38  
CLERK OF COURT

**RESPONSE AND MOTION TO DISMISS PETITION**

Verizon South Inc. ("Verizon") hereby moves to dismiss the "Petition for Change in Telephone Provider" submitted by Donald A. Quick and 18 other residents of the Center Creek Community (the "Petition" and "Petitioners") on the ground that the relief requested is both unnecessary and outside the authority of the Commission. Petitioners do not need to seek approval from the Commission before changing their service to a willing alternative provider, and the Commission cannot force an alternative provider to offer local exchange service or broadband access in Center Creek against its will. Therefore, because the Commission cannot grant the relief requested in the Petition, the Petition should be dismissed.

**ARGUMENT**

The Petitioners live in the Center Creek Community, which is located within the Winnsboro exchange and borders the territory of two other incumbent local exchange

companies – BellSouth and Ridgeway Telephone Company. Petitioners state that they are unhappy with Verizon’s service, both with respect to service quality and the range of services offered, and ask the Commission “for a change in our local telephone provider.” As set forth below, the Commission has no authority to grant the relief requested.<sup>1</sup>

# **1. Verizon Service Quality**

Petitioners complain that (1) they were required to make multiple calls to have Verizon service installed; (2) service representatives were not aware that the Petitioners lived within Verizon’s service territory; (3) Verizon has left wires unburied in their yards; (4) there is “intermittent humming and/or buzzing” on the lines; and (5) Verizon does not provide DSL; (6) “package programs” in the area. Verizon addresses each of these complaints in turn.

First, Verizon is unable to substantiate Petitioners’ claim that they have had to make “4-20 phone calls to get new service set up.” However, Verizon is taking important steps to improve service quality for all of its South Carolina customers, including hiring several hundred new customer service representatives to handle increased call volumes, which it believes will allow customers to obtain the help they need faster and more reliably.

Second, Verizon admits that there has been confusion among its customer service representatives regarding whether Center Creek falls within Verizon’s service territory. The confusion stems from the fact that petitioners have a Ridgeway, South Carolina, mailing address even though they are part of the Winnsboro exchange served by Verizon.

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<sup>1</sup> Rule 103-836 authorizes the filing of a petition only for “relief, other than for an adjustment of rates and charges, which the Commission is empowered to grant under its statutory authority.”

Ridgeway, South Carolina is served by another incumbent provider, Ridgeway Telephone Company, which leads to confusion among customer service representatives when a Ridgeway mailing address is mentioned. Verizon will reinforce with its representatives that a Ridgeway mailing address does not necessarily mean that the customer is physically located within Ridgeway's incumbent service territory.

Third, Verizon dispatched a technician to the area to investigate allegations that residents in Center Creek still have temporary telephone drop wires lying on the ground alongside their driveways. The technician did not find any unburied telephone drop lines, but did find what appear to be unburied cable TV drops, which do not belong to Verizon.

Fourth, Verizon has determined from its records that two of the Petitioners – Barney Burns (803-712-9602) and Matt and Trish Mathey (803-635-3065) – had reported “transmission/noise” on their telephone lines, which Verizon has addressed. To the extent that “[m]any of the neighbors” are alleged to have had such trouble, this information was not reported to Verizon.

Fifth, Petitioners are correct that Verizon does not currently offer DSL in the Center Creek area, primarily due to the high cost of deployment of this service.

Sixth, Verizon is making necessary systems modifications that will allow it to introduce its Freedom® packages in South Carolina, thus addressing the Petitioners' desire for all-you-can-eat local and long distance service options. Although a firm date has not been established, Verizon believes it will begin offering those bundled services sometime in the second half of 2006. Furthermore, the customer's can bundle Direct TV into these packages and receive additional savings.

## 2. Request for Change in Service Provider

In the event that Petitioners still desire to choose another local service provider, there is no legal impediment to their doing so. Under existing law, other providers already have the right to offer competitive local exchange service and broadband internet access to residents of Center Creek.<sup>2</sup> Verizon has interconnection agreements with more than seventy-one (71) competitive local exchange carriers (“CLECs”) in South Carolina, any or all of whom may choose to offer local exchange telecommunications service and high-speed internet access to Center Creek residents. In addition, cable providers may offer broadband service and voice-over-IP (“VoIP”) over their cable facilities without regulation by, or interference from, the Commission. Thus, if Center Creek residents have a willing alternative provider from whom they would like to obtain service, existing law already permits them to take advantage of that service. There is no need for the petitioners to ask permission from the Commission to change service providers, and in that respect, the Petition is moot.

To the extent, however, that Petitioners are asking the Commission to *order* another carrier to provide service in Center Creek, the Commission has no authority to do so. The only mandatory service obligations permitted by statute are those that are imposed on “carriers of last resort” (“COLRs”). A COLR is defined as “a facilities-based local exchange carrier” that “has the obligation to provide basic local exchange telephone service, upon reasonable request, to all residential and single-line business customers within a defined service area.” S.C. Code § S.C. Code § 58-9-10(8). By statute, the

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<sup>2</sup> Communications Act of 1934, 48 Stat. 1064, 47 U.S.C.S. § 151 et seq., as amended by the Telecommunications Act of 1996, 110 Stat. 56; S.C. Code § 58-9-280(B).

incumbent LEC (here Verizon)<sup>3</sup> is automatically the COLR within its existing service area and, as such, is entitled to intrastate universal service fund (“USF”) support.<sup>4</sup> The Commission may designate a second COLR entitled to state USF support, but that carrier “must be willing and able and must certify its commitment to provide” basic local exchange telephone service.<sup>5</sup> In other words, the Commission may not force another carrier to undertake COLR responsibilities against its will.

Furthermore, COLR obligations (and any state USF support) extend *only* to stand-alone basic local exchange telecommunications service.<sup>6</sup> The Commission has no authority to force a COLR to offer bundles or packages,<sup>7</sup> nor may it compel any

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<sup>3</sup> S.C. Code § 58-9-10(11) defines “incumbent local exchange carrier” as “a telecommunications company, its affiliates, successors, or its assigns, which provide local exchange service pursuant to a certificate of public convenience and necessity issued by the commission before July 1, 1995, or operating as a local exchange carrier before that date pursuant to commission authority, to provide local exchange service within a certificated geographic service area of the State.”

<sup>4</sup> S.C. Code § 58-9-280(E).

<sup>5</sup> Order No. 2001-996, *In re: Proceeding to Establish Guidelines for an Intrastate Universal Service Fund*, Docket No. 97-239-C (October 10, 2001).

<sup>6</sup> “The term ‘basic local exchange telephone service’ means for residential and single-line business customers, access to basic voice grade local service with touchtone, access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (white pages or equivalent).” S.C. Code § 58-9-10(9). Basic local exchange telephone service does not include “bundled offerings.” S.C. Code § 58-9-285(A)(1).

<sup>7</sup> S.C. Code § 58-9-285(B)(1) (stating that the Commission “must not . . . impose any requirements related to the terms, conditions, rates, or *availability* of any bundled offering . . .”) (emphasis added).

telephone utility – including Verizon – to offer broadband service,<sup>8</sup> let alone compel the provision of DSL in areas where the company has determined that the return does not justify the substantial cost.

Therefore, the Commission does not have jurisdiction to order the relief requested in the Petition. Additionally, Petitioner Donald A. Quick does not have the authority or standing to pursue the matter on behalf of the other residents in the Center Creek Community. Although this matter was not filed as a class and does not seek class status, it is asserted that any alleged purported prospective class comprised of nineteen (19) of the twenty-two (22) residents in the affected Center Creek Community area is untenable and that joinder is practicable. Verizon further asserts that separate mini-hearings on the merits of each individual allegation of the Petition would have to be held for each resident. As set forth in more detail above, there is no common question or common nucleus of operative facts present for the entire nineteen (19) residents mentioned in the Petition.

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<sup>8</sup> S.C. Code § 58-9-280(G)(1) (the Commission “must not: (1) impose any requirements related to the terms, conditions, rates, or *availability* of broadband service, or (2) otherwise regulate broadband service . . .”) (emphasis added).



## CONCLUSION

For the reasons set forth above, the Petition should be dismissed because the Commission does not have authority to grant the relief requested.

Respectfully submitted this 17 day of April 2006.

VERIZON SOUTH INC.

BY: 

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